

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 106 of 2021

1. Hiralal Wadhvani, S/o Late Shri Pherumal Wadhvani Aged About 61 Years R/o C-4 Sales Tax Colony , Shankar Nagar, Raipur, District Raipur Chhattisgarh.
2. Indra Kumar Wadhvani, S/o Late Shri Hiralal Wadhvani Aged About 61 Years R/o C-4 Sales Tax Colony, Shankar Nagar, Raipur, District Raipur Chhattisgarh.
3. Neeta Wadhvani, W/o Late Shri Hiralal Wadhvani Aged About 60 Years R/o C-4 Sales Tax Colony, Shankar Nagar , Raipur , District Raipur Chhattisgarh.
4. Yogesh Raghvani, S/o Late Shri Kodamal Raghvani Aged About 40 Years R/o 31/276 New Shanti Nagar, Raipur, District Raipur Chhattisgarh.
5. Dilip Kumar Keshwani, S/o Late Shri Govind Kumar Keshwani Aged About 53 Years R/o B-32 Gayatri Nagar, Near Jaganath Mandir, Raipur , District Raipur Chhattisgarh.
6. Banshilal Bagh, S/o Late Shri Ratilal Bagh Aged About 75 Years R/o D-4/7 New Rajendra, Raipur, District Raipur Chhattisgarh.
7. Shankar Kumar Bagh, S/o Shri Banshilal Bagh Aged About 46 Years R/o D-4/7 New Rajendra, Raipur, District Raipur Chhattisgarh.

---- Petitioners

Versus

1. Municipal Corporation Raipur, Through The Commissioner, Municipal Corporation Raipur, Raipur, District Raipur Chhattisgarh.
2. The Commissioner, Municipal Corporation Raipur, Raipur District Raipur Chhattisgarh.
3. Zone Commissioner, Zone No. 04 , Municipal Corporation Raipur, Raipur District Raipur Chhattisgarh.

---- Respondents

For petitioners– Shri Ashish Surana, Advocate.

For respondents -Shri Pankaj Agrawal, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

11/01/2021

Heard.

1. Challenge in this petition is to the notice dated 6/01/2021 (Annexure P-1) whereby the petitioners have been directed to vacate the shops which are in their hold at Municipal Corporation, Raipur which falls within the market area. It is contended that the petitioners are the

purchasers of the superstructure from the original allottee of the Municipal Corporation and their names were mutated in the records of the Municipal, however in order to construct a commercial superstructure, the petitioners have been asked to vacate the shops so that construction can be carried out. He would submit that the petitioners are in possession of the shop after they purchased the same from the original allottee and they cannot be forced to vacate the same otherwise than in due course of law.

2. Learned counsel for the respondents would submit that the petitioners have not been allotted the shop and they are required to be evicted.

3. Perusal of the notice dated 6/01/2021 (Annexure P-1) would show that the petitioners have been asked to vacate the shop primarily on the ground that certain commercial complex is to be raised in those places. In any case the tenure of notice would show that vacation is sought for the reason the commercial complex is to be raised. The need being so, petitioners cannot be asked to vacate the shop by force otherwise than in due course of law. Therefore the part of notice dated 6/01/2021 (Annexure P-1) wherein the petitioners have been asked to be forcefully dispossessed cannot be acted upon. Consequently, the petitioners would be given a hearing against notice dated 6/01/2021 and after due hearing any order may be passed and dispossession of the petitioners from the superstructure occupied as of now shall not be carried out otherwise than in due course of law.

4. With the aforesaid observation, the petition stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE

